

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>EMILIO ONTIVEROS-LARA, 45172-177,</b>	§	
	§	
Plaintiff,	§	
v.	§	Civil Action No. <b>3:14-CV-3274-L</b>
	§	
<b>UNITED STATES OF AMERICA,</b>	§	
	§	
Defendant.	§	

**ORDER**

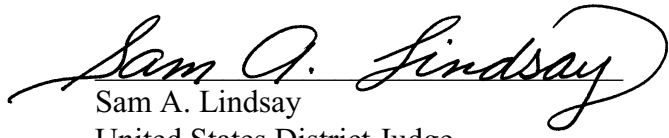
The case was referred to Magistrate Judge Paul D. Stickney, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on January 28, 2015, recommending that this action be dismissed for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b). A copy of this Report was returned as undeliverable. Plaintiff has been released from incarceration, and the court is without an additional mailing address to provide Plaintiff with a copy of the Report.

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct, **accepts** them as those of the court, and **dismisses without prejudice** this action pursuant to Rule 41(b) for want of prosecution.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report and the court’s order accepting the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the foregoing orders, the

court concludes that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5). In the event that Plaintiff files a notice of appeal, he must pay the \$505 appellate filing fee or submit a motion to proceed *in forma pauperis* (“IFP”), unless he has been granted IFP status by the district court.

**It is so ordered** this 31st day of March, 2015.

  
Sam A. Lindsay  
United States District Judge